



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

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Date Mailed: August 18, 2023  
MOAHR Docket No.: 23-004191  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 16, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Sara Estes, Hearing Facilitator.

**ISSUE**

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefit case?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FAP recipient.
2. On December 19, 2022, Petitioner completed a redetermination related to his FAP benefit case (Exhibit A, pp. 9-14).
3. On January 17, 2023, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of his self-employment income (Exhibit A, pp. 21-35). The Department also sent self-employment income and expense forms for October, November and December 2022.
4. On February 14, 2023, the Department received self-employment expense forms for the months of November, December and February 2023 (Exhibit A, pp. 42-47). Petitioner reported no income for November and December 2022 and no information was provided for February 2023.

5. On February 21, 2023, the Department received more self-employment expense forms for the month of November and December 2022 and February 2023 (Exhibit A, pp. 48-62). The November 2022 form reported Petitioner's Social Security income, the December 2022 form listed expenses, but no income and the February 2023 form had no income or expenses. Petitioner also submitted a tax return for 2021.
6. On March 7, 2023, the Department sent Petitioner a VCL and self-employment income and expense statement forms for November and December 2022 and February 2023 (Exhibit A, pp. 76-81).
7. On March 17, 2023, Petitioner submitted duplicative income and expense statements.
8. On March 30, 2023, the Department completed an interview with Petitioner. Petitioner stated he was unsure as to the amount of his self-employment income.
9. On March 30, 2023, the Department sent Petitioner a Notice of Case Action informing Petitioner that his FAP benefit case was closing effective March 1, 2023, ongoing, for his failure to return the requested verifications (Exhibit A, pp. 82-92).
10. On April 7, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner provided information to the Department that he had some self-employment income during the period in which his FAP benefit review was being conducted. As a result, the Department sent Petitioner numerous requests for verification of his self-employment income, the last of which was sent on March 7, 2023. Proofs were due by March 17, 2023.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2021), p. 1. To request verification

of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is required. BAM 130, p. 7. Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a Department representative are considered to be received the next business day. BAM 130, p. 7. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

At the hearing, the Department testified that it made numerous attempts to verify Petitioner's income. Petitioner returned income and expense statements but none of them had income and expenses for the month that was correct. Additionally, Petitioner returned a tax return for 2021, but he reported that he was no longer working as much as he did in 2021, and the income was not reflective of his current income. Petitioner failed to return sufficient proof of his self-employment income. As a result, the Department closed Petitioner's FAP benefit case.

At the hearing, Petitioner testified that he was confused regarding the information requested. Petitioner believed the Department was requesting information from his employment in 2021. Petitioner stated that once he understood what the Department was requesting, he submitted the proper information during a subsequent application. Petitioner was approved for FAP benefits but had a lapse of benefits due to the closure effective March 1, 2023. Petitioner stated that when he attempted to obtain clarification regarding the verifications requested, but he was not given clear information.

The Department sends a negative action when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. Petitioner clearly did not indicate a refusal to provide the verification and made a reasonable effort to comply with the requests for verification. Thus, the Department did not act in accordance with policy when it closed Petitioner's FAP benefit case.

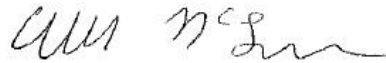
### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's FAP benefit case.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's FAP eligibility as of March 1, 2023, ongoing;
2. If Petitioner is eligible for additional FAP benefits, issue supplements he is entitled to receive; and
3. Notify Petitioner of its FAP decision in writing.



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**Ellen McLemore**  
Administrative Law Judge

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via-Electronic Mail :**

**DHHS**  
Janice Collins  
Genesee County DHHS Union St  
District Office  
125 E. Union St 7th Floor  
Flint, MI 48502  
**MDHHS-Genesee-UnionSt-  
Hearings@michigan.gov**

**Interested Parties**

M. Holden  
D. Sweeney  
BSC2

**Via-First Class Mail :**

**Petitioner**

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